

AMENDED IN ASSEMBLY APRIL 16, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2937**

**Introduced by Assembly Member Shelley**

February 25, 2002

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An act to amend Section ~~6253.9~~ 6252 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 2937, as amended, Shelley. ~~Copies of public~~ *Public* records: ~~costs entities.~~

The California Public Records Act establishes the right of every person to inspect and obtain copies of public records not exempt from disclosure, ~~and requires disclosure of any reasonably segregable portion of a record after deletion of the portions that are exempt by law from specified state and local agencies.~~ ~~The act also requires a public agency to make the record available in any electronic format in which it holds the information and authorizes the agency to charge the public for the direct cost of duplicating the record.~~

~~This bill would provide that the act shall not be construed to authorize an agency to charge the public for segregating or deleting portions of records that are exempted by law. The bill would state the finding and declaration of the Legislature that this prohibition is declaratory of existing law. The act defines local agency to include, among other things, specified nonprofit entities that are legislative bodies of a local agency for purposes of open meeting requirements.~~

*This bill would delete nonprofit from this definition.*

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~—no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1.—Section 6253.9 of the Government Code is~~  
2     *SECTION 1. Section 6252 of the Government Code is*  
3     *amended to read:*  
4     6252. As used in this chapter:  
5     (a) “State agency” means every state office, officer,  
6     department, division, bureau, board, and commission or other  
7     state body or agency, except those agencies provided for in Article  
8     IV (except Section 20 thereof) or Article VI of the California  
9     Constitution.  
10    (b) “Local agency” includes a county; city, whether general  
11    law or chartered; city and county; school district; municipal  
12    corporation; district; political subdivision; or any board,  
13    commission or agency thereof; other local public agency; or  
14    ~~nonprofit~~ entities that are legislative bodies of a local agency  
15    pursuant to subdivisions (c) and (d) of Section 54952.  
16    (c) “Person” includes any natural person, corporation,  
17    partnership, limited liability company, firm, or association.  
18    (d) “Public agency” means any state or local agency.  
19    (e) “Public records” includes any writing containing  
20    information relating to the conduct of the public’s business  
21    prepared, owned, used, or retained by any state or local agency  
22    regardless of physical form or characteristics. “Public records” in  
23    the custody of, or maintained by, the Governor’s office means any  
24    writing prepared on or after January 6, 1975.  
25    (f) “Writing” means *any* handwriting, typewriting, printing,  
26    ~~photostating~~, photographing, and every other means of recording  
27    upon any form of communication or representation, including  
28    letters, words, pictures, sounds, or symbols, or combination  
29    thereof, and all papers, maps, magnetic or paper tapes,  
30    photographic films and prints, *photostatic copies*, magnetic or  
31    punched cards, discs, drums, and other documents.  
32    (g) “Member of the public” means any person, except a  
33    member, agent, officer, or employee of a federal, state, or local  
34    agency acting within the scope of his or her membership, agency,  
35    office, or employment.

1 amended to read:

2 ~~6253.9. (a) Unless otherwise prohibited by law, any agency~~  
3 ~~that has information that constitutes an identifiable public record~~  
4 ~~not exempt from disclosure pursuant to this chapter that is in an~~  
5 ~~electronic format shall make that information available in an~~  
6 ~~electronic format when requested by any person and, when~~  
7 ~~applicable, shall comply with the following:~~

8 ~~(1) The agency shall make the information available in any~~  
9 ~~electronic format in which it holds the information.~~

10 ~~(2) Each agency shall provide a copy of an electronic record in~~  
11 ~~the format requested if the requested format is one that has been~~  
12 ~~used by the agency to create copies for its own use or for provision~~  
13 ~~to other agencies. The cost of duplication shall be limited to the~~  
14 ~~direct cost of producing a copy of a record in an electronic format.~~

15 ~~(b) Notwithstanding paragraph (2) of subdivision (a), the~~  
16 ~~requester shall bear the cost of producing a copy of the record,~~  
17 ~~including the cost to construct a record, and the cost of~~  
18 ~~programming and computer services necessary to produce a copy~~  
19 ~~of the record when either of the following applies:~~

20 ~~(1) In order to comply with the provisions of subdivision (a),~~  
21 ~~the public agency would be required to produce a copy of an~~  
22 ~~electronic record and the record is one that is produced only at~~  
23 ~~otherwise regularly scheduled intervals.~~

24 ~~(2) The request would require data compilation, extraction, or~~  
25 ~~programming to produce the record.~~

26 ~~(c) Nothing in this section shall be construed to require the~~  
27 ~~public agency to reconstruct a record in an electronic format if the~~  
28 ~~agency no longer has the record available in an electronic format.~~

29 ~~(d) If the request is for information in other than electronic~~  
30 ~~format, and the information also is in electronic format, the agency~~  
31 ~~may inform the requester that the information is available in~~  
32 ~~electronic format.~~

33 ~~(e) Nothing in this section shall be construed to permit an~~  
34 ~~agency to make information available only in an electronic format.~~

35 ~~(f) Nothing in this section shall be construed to require the~~  
36 ~~public agency to release an electronic record in the electronic form~~  
37 ~~in which it is held by the agency if its release would jeopardize or~~  
38 ~~compromise the security or integrity of the original record or of~~  
39 ~~any proprietary software in which it is maintained.~~

1     ~~(g) Nothing in this section shall be construed to permit public~~  
2     ~~access to records held by any agency to which access is otherwise~~  
3     ~~restricted by statute.~~

4     ~~(h) Nothing in this section shall be construed to authorize an~~  
5     ~~agency to charge the public for segregating or deleting portions of~~  
6     ~~records that are exempted by law.~~

7     ~~SEC. 2. The Legislature finds and declares that subdivision~~  
8     ~~(h) of Section 6253.9 of the Government Code, as added to that~~  
9     ~~section by Section 1 of this act, is declaratory of existing law.~~

